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AUG 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Jia et al.	:	DECISION GRANTED
Application No. 10/615,645	:	
Deposited: July 8, 2003	:	
Attorney Docket No.: S-97,819	:	

This is a decision on the Petition filed July 22, 2005, requesting that the above-identified application be accorded the filing date of July 8, 2003.

Application papers in the above-identified application were deposited on July 8, 2003. However, on May 20, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had **not** been accorded a filing date because the application was deposited without a complete specification which includes at least one claim pursuant to 35 USC 112. The notice stated pages 2-19 of the specification were missing. The Notice also stated the papers were deposited without an oath or declaration and required replacement drawings

In response, 18 sheets of specification and claims, including pages 2-19 (pages 18-19 contain claims) replacement drawings and the present petition were filed on July 22, 2005. The petition contends that the application as filed included a complete specification which included at least one claim. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "Specification (17 pages), claims (2 pages) " on July 8, 2003.

Applicant's postcard receipt is prima facie¹ evidence that a total of 19 pages of application including a complete specification with at least claim were received on July 8, 2003, but a complete specification with at least one claim is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 19 pages of application papers including at least one claim were received on July 8, 2005, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

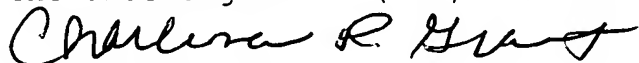
Since the original complete specification including at least one claim cannot be located in the Office, the copy of the specification and claims supplied on July 22, 2005, will be used for processing and examination purposes.

The \$400.00 petition fee will be refunded to deposit account 12-2150.

It is noted an oath or declaration in response to the Notice has not been submitted. Petitioner is reminded failure to respond to the Notice with the appropriate extension of time fee may result in abandonment.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of July 8, 2003, using the specification submitted on July 8, 2003 and copy of pages 2-19 of the specification (including at least one claim) supplied on July 22, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petition Attorney
Office of Petitions

¹A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.